



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

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L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

Gerard Seeley, Jr.
Regional Director

WASTE MANAGEMENT BOARD

ENFORCEMENT ACTION

ORDER BY CONSENT

ISSUED TO

US FILTER RECOVERY SERVICES (MID-ATLANTIC), INC.

EPA ID No. VAD988222998

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Waste Management Board and U.S. Filter Recovery Services (Mid-Atlantic), Inc. for the purpose of resolving certain alleged violations of the Virginia Waste Management Act and the Virginia Hazardous Waste Management Regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1401 and 10.1-1184.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as a Consent Order.

6. “U.S. Filter” means U.S. Filter Recovery Services (Mid-Atlantic), Inc., a corporation certified to do business in Virginia.
7. “Facility” means the Rockville facility, owned and operated by U.S. Filter, located at 2353 Lanier Road, in Goochland County, Virginia.
8. “PRO” means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. “VHWMR” means the Virginia Hazardous Waste Management Regulations 9 VAC 20-60-12 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

1. US Filter is the “Owner” and “Operator” of its facility at 2353 Lanier Road in Goochland County, Virginia (“Facility”), as those terms are defined in 40 CFR § 260.10.
2. During the month of January 2005, U.S. Filter shipped greater than 1,000 kilograms of spent solvent storage tank bottoms from the Facility. Spent solvent storage tank bottoms constitute “hazardous waste”, as that term is defined in 40 CFR § 260.10. Accordingly, during the month of January 2005, the Facility became a Large Quantity Generator (“LQG”) of hazardous waste and subject to the regulations for generators of greater than 1000 kilograms of hazardous waste per month, found in 40 CFR § 262.
3. On May 5, 2005, DEQ staff conducted an inspection of the Facility. During this inspection, the following instances of noncompliance with the LQG and Used Oil Management Standards set forth in or incorporated within the VHWMR were observed, though all of them were subsequently addressed by document submission or other appropriate action by U.S. Filter:
 - a. The facility had not notified the Department of its LQG status with a Subsequent Notification of Regulated Waste Activity Form, as required by 9 VAC 20-60-315.D;
 - b. The Facility’s Contingency Plan and Emergency Procedures Plan did not fulfill the requirements found in 40 CFR §§ 265.50 through 265.56 and 40 CFR §§ 279.52(b)(1) and (2);
 - c. The Facility did not make appropriate arrangements with local authorities as required by 40 CFR § 265.37(a) and 40 CFR § 279.52(a)(6) and did not submit a copy of the contingency plan and associated plan revisions to local authorities, as required by 40 CFR § 265.53(b);
 - d. The Facility did not submit a Notification of Hazardous Waste Accumulation Area to DEQ for hazardous waste containers, as required by 9 VAC 20-60-262.B.4;

- e. Written job descriptions for each employee responsible for hazardous waste management, required by 40 CFR § 265.16(d), were not available during the inspection, and employee hazardous waste management training provided by the Facility did not fulfill the requirements of 40 CFR § 265.16; and
 - f. A small potentially contaminated area existed on the ground at the Facility that appeared similar in nature to a petroleum release.
- 4. During the inspection, DEQ staff asked to review several items required to be maintained at the Facility by the VHWMR LQG and Used Oil Management Standards. Some items were provided to DEQ staff at the time of inspection; however the following items were not provided during the inspection and instead were provided to the Department during and after a September 13, 2005 meeting between representatives of US Filter and the Department:
 - a. A detailed written waste analysis plan, required by 40 CFR §§ 262.40(c) and 279.55;
 - b. Documentation that spent solvents are not solid waste or are conditionally exempt from regulation, as required by 40 CFR § 261.2(f);
 - c. Hazardous waste determinations, required by 40 CFR § 262.11, for laboratory waste, still bottoms, tank bottoms, spent carbon filters, unidentified waste in a dumpster and petroleum contaminated materials;
 - d. Records of test results, waste analyses, or other determinations made in accordance with 40 CFR § 262.11 kept for at least three years, as required by 40 CFR § 262.40(c); and
 - e. A Land Disposal Restriction Notification Form for the manifest dated January 10, 2005, as required by 40 CFR § 268.7(a)(2).
- 5. During the May 5, 2005 inspection, DEQ staff observed records indicating that U.S. Filter had received four shipments of waste mineral oil containing 1,1,2-trichloro-1,2,2-trifluoroethane solvent ("Solvent"). This received mineral oil was offloaded into the Facility's storage tanks. The generator of this received mineral oil has advised the DEQ that the Solvent was utilized for its solvent characteristics during the manufacturing process of the generator.
- 6. Based upon a review of the mineral oil generator's manufacturing process, the Solvent is an F002 listed hazardous waste pursuant to 40 CFR § 261.31 (Subpart D- Lists of Hazardous Wastes), and the mineral oil containing the Solvent as accepted by U.S. Filter should therefore have been classified and managed as "hazardous waste," as that term is defined by 40 CFR § 261.3(a)(2). The unloading of the contaminated waste mineral oil into the Facility's storage tanks consequently resulted in the dilution of hazardous wastes, contrary to 40 CFR § 268.3.
- 7. On August 11, 2005, Notice of Violation (NOV) No. 2005-08-PRO-601 was issued for the items listed in Paragraphs 3 through 6, above.

8. U.S. Filter disagrees with the statements set forth in Paragraph 6 above. Nonetheless, due to changes in the manufacturing process and management of mineral oil by the generator of the Solvent, U.S. Filter will not be receiving further shipments of this particular mineral oil containing the Solvent from that generator.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 10.1-1455(F), orders U.S. Filter, and U.S. Filter voluntarily agrees to pay a civil charge of \$11,000 within 30 days of the effective date of the Order in settlement of the violations and alleged violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia" and shall be delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

Either on a transmittal letter or as a notation on the check, U.S. Filter shall include its Federal Identification Number.

SECTION E: Administrative Provisions

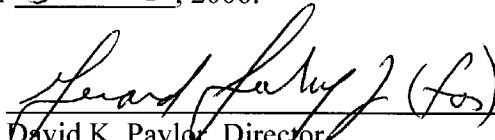
1. The Board may modify, rewrite, or amend the Order with the consent of U.S. Filter for good cause shown by U.S. Filter, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations and alleged violations specifically identified herein, including those matters addressed in the Notice of Violation issued to U.S. Filter by DEQ on August 11, 2005. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, U.S. Filter admits the jurisdictional allegations, factual findings, and conclusions of law contained herein, except that U.S. Filter does not admit to the conclusions of law of Section C.6 above.

4. US Filter consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. US Filter declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by U.S. Filter to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. US Filter shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. U.S. Filter shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. U.S. Filter shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within twenty-four (24) hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and U.S. Filter. Notwithstanding the foregoing, U.S. Filter agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to U.S. Filter. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve U.S. Filter from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, U.S. Filter voluntarily agrees to the issuance of this Order.

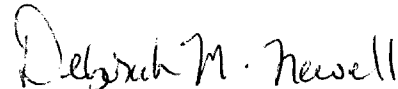
And it is so ORDERED this 2nd day of June, 2006.



David K. Paylor, Director
Department of Environmental Quality

US Filter voluntarily agrees to the issuance of this Order.

Date: 4-11-06

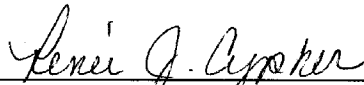
By: 

Deborah M. Newell
Vice President and Secretary

State of PA

City/County of Warrendale, Butler

The foregoing document was signed and acknowledged before me this 11th day of APRIL, 2006, by Deborah M. Newell, who is Vice President and Secretary of U.S. Filter Recovery Services (Mid-Atlantic), Inc., on behalf of the Corporation.



Notary Public

My commission expires: _____

